S.B. CIVIL WRIT PETITION NO. 4730/2004.
(STATE VS. MOHAN RAM & ANR.)

DATE OF ORDER : 06.09.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Shyam Ladrecha, AGA for the petitioner.
Mr. M.C. Bishnoi for the petitioner/s.

By this petition for writ, a challenge is given to the award dated 06.02.2002 passed by Labour Court, Jodhpur in Labour Case No.12/99.

In brief, facts of the case are that the appropriate government by its notification dated 04.12.98 referred an industrial dispute to Labour Court, Jodhpur for its adjudication in following terms:

> "क्या नियोजक सहायक अभियन्ता, जन स्वा0 अभि0 विभाग, भोपालगढ़ जिला जोधपुर द्वारा श्रमिक श्री मोहनराम पुत्र श्री हीराराम, पद हैल्पर निवासी गांव पोस्ट रतकुडिया तहसील भोपालगढ़ जिला जोधपुर को दिनांक 1-4-89 से सेवा से पृथक करना उचित एवं वैध है? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी है?"

Learned Labour Court considering all the evidence available on record, held that after discontinuing the respondent workman Mohan Ram from service, the employer employed S/Sh. Khumaram, Rampratap Singh and Hukmaram without considering the candidature of the workman.

A specific finding is given by the Labour Court that while effecting retrenchment of the workman, there was violation of provisions of Section 25-G and 25-H of the Industrial Disputes Act, 1947. On basis of the findings above, learned Labour Court held termination of the workman illegal and ordered for his reinstatement in service with back wages to the extent of 25%.

Heard counsel for the petitioner.

At the outset, it is stated by counsel for the parties that in compliance of the award dated 06.02.2002, the workman has already been reinstated subject to decision of this writ petition. From perusal of the award impugned, it is apparent that the findings given by the labour court are based on sound appreciation of evidence available on record. It is not at all in dispute that S/Sh. Khumaram, Rampratap Singh and Hukmaram were employed by the petitioner employer after discontinuing the workman from service. The finding given by the labour court does not warrant any interference by this Court under Article 226 and 227 of the Constitution of India.

Accordingly this petition for writ is dismissed.

(GOVIND MATHUR)J.

Anil/